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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Panel discussion on the rights of indigenous peoples

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

The present report contains a summary of the proceedings of the annual half-day panel discussion on the rights of indigenous peoples, held at the forty-fifth session of the Human Rights Council, including summaries of the opening statements and of the presentations made by panellists and highlights from the interactive discussion that followed. Pursuant to Council resolutions 39/13 and 42/19, the panel discussion was focused on the protection of indigenous human rights defenders.



I. Introduction

1. As mandated in resolution 18/8 of 29 September 2011, the Human Rights Council held its annual half-day panel discussion on the rights of indigenous peoples, on 23 September 2020. Pursuant to Council resolutions 39/13 of 28 September 2018 and 42/19 of 26 September 2019, the discussion was focused on the protection of indigenous human rights defenders.
2. The panel discussion was aimed at assessing the global trends in threats and violence against indigenous human rights defenders, including in conflict and post-conflict areas; considering the reasons behind the use of threats and violence against indigenous human rights defenders, believed by experts to have increased in recent years; assessing the impact of the aforementioned types of violence; and identifying good practices and current challenges in violence prevention and the protection of indigenous human rights defenders, including indigenous-led protection mechanisms and their further empowerment.
3. The panel was chaired and moderated by the Vice-President of the Human Rights Council, Yackoley Kokou Johnson, and comprised the following panellists: member of the indigenous Nasa people of Colombia and Human Rights Counsellor of the National Indigenous Organization of Colombia, Aida Quilcué Vivas; Executive Director of Front Line Defenders, Andrew Anderson; member of the indigenous Kankanaey Igorot people of the Philippines and former Special Rapporteur on the rights of indigenous peoples, Victoria Tauli Corpuz; and Director of the Alliance nationale d'appui et de promotion des aires et territoires conservés par les peuples autochtones et communautés locales en République Démocratique du Congo, Joseph Itongwa.
4. The panel members delivered their speeches and engaged in subsequent discussions online owing to the unprecedented circumstances associated with the coronavirus disease (COVID-19) pandemic.
5. The panel discussion was accessible to persons with disabilities and was webcast and recorded.¹

II. Opening of the panel discussion

6. The Vice-President of the Human Rights Council opened the panel discussion. The United Nations Deputy High Commissioner for Human Rights, in her opening statement, acknowledged that indigenous human rights defenders were extraordinary people who represented some of the most vulnerable communities. She emphasized that COVID-19 disproportionately affected indigenous people, exposed pre-existing structural inequalities and exacerbated the overall situation related to their health and access to quality health-care services.
7. The Deputy High Commissioner recalled the Sustainable Development Goals and emphasized the Goals relating to indigenous peoples, including those on ending hunger, guaranteeing quality education and ensuring participation. The 2030 Agenda for Sustainable Development reflected the fact that indigenous peoples faced specific challenges, experienced marginalization and suffered from multiple and intersectional forms of discrimination.
8. The Deputy High Commissioner portrayed indigenous human rights defenders as agents of change and guardians of the ancestral lands, natural resources, culture, knowledge and livelihoods of indigenous peoples. They risked their own lives while seeking to protect the lives and way of life of their communities. In that context, she referred to the reported cases of harassment, attacks, other violence and killings perpetrated against that group. She noted the worrying statistic that 212 land and environmental activists had been murdered in

¹ See <http://webtv.un.org/watch/panel-discussion-on-rights-of-indigenous-peoples-17th-meeting-45th-regular-session-human-rights-council/6193852943001>.

2019 – the highest recorded number since 2012, although the true figure was believed to be higher – of whom 40 per cent were of an indigenous background.

9. The Deputy High Commissioner emphasized the need to collect adequate data on the injurious treatment of indigenous human rights defenders. Such data were crucial in assessing policies and programmes aimed at improving the well-being of indigenous peoples and combating cases of discrimination and violence against them.

10. On the root causes of casualties borne by indigenous people, the Deputy High Commissioner referred to aggressive development models that violated traditional land rights and the right to natural resources that were vital for the subsistence of indigenous communities. Such challenges could be overcome through a sustainable approach to development, whereby indigenous rights were respected and their free, prior and informed consent was obtained.

11. Concluding her opening statement, the Deputy High Commissioner noted that despite multiple reports, decisions and resolutions, based on international law developed and ratified by Member States, indigenous human rights defenders remained subject to reprisals and intimidation by their Governments. She emphasized the obligation of Member States to ensure the protection of indigenous human rights defenders and to hold aggressors and violators to account.

III. Summary of the proceedings

A. Contributions of the panellists

12. Ms. Quilcué Vivas, describing the current situation of indigenous peoples in Colombia, stated that 115 indigenous communities presently residing in Colombia faced a risk of physical and cultural extermination and were on the brink of genocide. Despite the concluded peace agreement, the indigenous communities continued to face systematic violations of their rights and freedoms.

13. Over 10,700 human rights violations and cases of victimization had been recorded by the National Indigenous Organization of Colombia. Chocó was among the most affected departments, where displacement, anti-personnel mines and assassinations were widespread. Similar incidents were taking place in four other departments, namely Antioquia, Valle del Cauca, Cauca and Nariño. Murders of young people, community leaders and inhabitants were common in Corinto and Totoró in Cauca, and in Nariño.

14. On the factors contributing to the exacerbation of the situation, Ms. Quilcué Vivas pointed to interest in indigenous territories with respect to drug trafficking and mining of hydrocarbon deposits. In order to protect their ancestral lands, community members mobilized and engaged in resistance tactics. The authorities treated indigenous peoples, students and civil society like criminals and terrorists, and persecuted them accordingly. In her view, that was the reason why the security forces used excessive power, abused their authority, shot and killed residents, students and indigenous peoples and even raped girls, as was claimed in the Departments of Risaralda and Guaviare.

15. In conclusion, Ms. Quilcué Vivas called on the United Nations High Commissioner for Human Rights, the Special Rapporteur on the rights of indigenous peoples and Member States to urge the Government of Colombia to guarantee the fundamental rights and freedoms of its indigenous peoples, take measures towards restricting the actions of the security forces, safeguard the lives of indigenous communities and protect their ancestral lands.

16. Mr. Anderson stated that one of the reasons why attacks on and killings of indigenous human rights defenders were extensively prevalent was the near total impunity enjoyed by perpetrators. As an example, he mentioned a recent court decision in Mexico, in which the court ruled to acquit the three individuals who had been charged with the disappearance of indigenous human rights defender Sergio Rivera Hernández, who had been missing since 2018.

17. He noted that in the past two and a half years, Front Line Defenders had worked on 130 cases involving human rights defenders who were at risk as a result of their work to protect the rights of indigenous peoples. During the process, human rights defenders faced a huge range of attacks: from threats, to smear campaigns deeply rooted in racism, to physical attacks and killings. However, the most common tactic reported to the Front Line Defenders was criminalization.

18. Moreover, in the past three years, Front Line Defenders had documented the killings of 240 indigenous human rights defenders, representing more than a quarter of human rights defenders killed globally. Those statistics were shockingly high, given that indigenous peoples made up only an estimated 5 per cent of the global population. The reason for indigenous peoples' vulnerability to attacks was their remote and isolated locations and their lack of access to State authorities, resources and infrastructure.

19. Mr. Anderson underscored the key role played by indigenous human rights defenders in combating climate change by defending their rights and their territories and by resisting large-scale land grabs, deforestation, megaprojects and the extraction of natural resources. However, increasing pressure on the world's natural resources and unchecked corruption often positioned them at odds with powerful actors, including companies.

20. He stressed that recognition by States of indigenous rights – in particular, respect for their collective rights to self-determination and to their lands, territories and resources – was essential to protect indigenous human rights defenders. He also emphasized the responsibility of companies to respect indigenous peoples' rights under the Guiding Principles on Business and Human Rights, including the right to give or withhold their free, prior and informed consent to projects affecting their communities.

21. Moreover, he believed that giving visibility and recognition to the work of indigenous human rights defenders could help foster a sense of solidarity with their struggle, add to their legitimacy in the face of smear campaigns, and increase the political will that was needed to ensure their better protection.

22. In conclusion, Mr. Anderson referred to the increased risks that indigenous human rights defenders had faced and continued to face during the global COVID-19 pandemic. Confining human rights defenders to their homes under national lockdowns had put them at a higher risk of attack, and several indigenous human rights defenders had been killed. Many companies had also continued operating on indigenous lands, putting communities at risk of infection with COVID-19 in areas where health care was not always accessible or sufficient. The crackdown on civic space was another factor that was greatly affecting the ability of defenders to speak out and mobilize to defend their rights.

23. Ms. Tauli Corpuz referred to the report that she had presented in 2018 as Special Rapporteur on the rights of indigenous peoples, in which she had provided a thematic study on the rising number of attacks against and criminalization of indigenous peoples.² She reiterated the worrying statistic mentioned by the Deputy High Commissioner that there had been 212 reported murders of human rights defenders in 2019, 40 per cent of whom belonged to indigenous communities. More than half of all assassinations of indigenous human rights activists had been perpetrated in the Philippines and Colombia.

24. Regarding the key sectors linked with the killings of indigenous human rights defenders, Ms. Tauli Corpuz noted that 50 of the aforementioned incidents had been associated with the mining sector, and 34 with agribusiness. In addition, 101 indigenous human rights defenders had been the victims of extrajudicial killings in the first seven months of 2020, 300 representatives of indigenous communities had faced arrests and criminalization, and 24 indigenous communities had been subjected to intimidation, in some cases leading to displacement from their ancestral territories.

25. The root cause of that ongoing disturbing trend, according to Ms. Tauli Corpuz, was the intensification of competition over the extraction of natural resources led by private companies, often with the complicity of Governments. Other root causes include lack of respect for indigenous peoples' collective land rights and failure to provide indigenous

² A/HRC/39/17.

peoples with secure land tenure. The escalation of attacks against indigenous peoples had occurred in the context of skewed power structures, whereby private companies wielded significant influence over States, which ensured that regulatory policies and investment agreements were properly tailored to promote the profitability of business enterprises.

26. Ms. Tauli Corpuz concluded her intervention with a set of recommendations on how to address those root causes and empower indigenous peoples to assert their own rights. She advised States to undertake impartial and prompt investigations; take effective measures and provide redress and reparations to the victims of criminalization and extrajudicial killings; introduce a zero-tolerance approach to killings and violence against indigenous human rights defenders; develop legislation on due diligence obligations for companies registered in their jurisdiction; conduct a comprehensive review of national legislation to ensure due process and revocation of laws and criminal procedures that violated the principle of legality and contradicted States' international human rights obligations; develop laws and policies to support the protection of human rights defenders and recognize the collective land rights of indigenous peoples; and ensure that the rights of indigenous peoples regarding consultation and free, prior and informed consent were respected and protected.

27. Mr. Itongwa highlighted cases of land confiscation, violent expropriation and forced displacement in the Democratic Republic of the Congo, as well as conflicts over land and expulsions of indigenous forest pygmy peoples from their ancestral land without their free, prior and informed consent. Armed conflicts continued in the east of the country, where indigenous peoples had been the forgotten victims in the Province of North Kivu. According to the results of monitoring of the land rights of indigenous peoples conducted by the organization that Mr. Itongwa represented, more than 30 cases of violations had been identified in the territories of Masisi, Nyiragongo and Beni.

28. According to Mr. Itongwa, agricultural producers and farmers exploited the social and cultural vulnerability of indigenous forest pygmy peoples to seize their lands. Indigenous leaders were often silenced through arrest and incarceration. Ignored grievances and claims of injustice worsened the existing vulnerable situation of indigenous forest pygmy peoples. The overall situation was exacerbated by the armed conflict that continued in most of the Democratic Republic of the Congo, and especially in Beni, where indigenous forest pygmy peoples had been targeted by foreign armed groups.

29. Mr. Itongwa welcomed the international efforts directed towards the protection of the rights of indigenous peoples in the Democratic Republic of the Congo. In particular, he underscored the work of the Indigenous Peoples' Centre for Documentation, Research and Information and the Indigenous People of Africa Coordinating Committee in promoting of the recommendations from the universal periodic review in the Democratic Republic of the Congo. Mr. Itongwa also emphasized the work of Indigenous Peoples' Rights International, which had supported lobbying and advocacy efforts on a bill establishing fundamental principles on the recognition and safeguarding of indigenous peoples' rights in the Democratic Republic of the Congo. On 5 June 2020, the National Assembly had voted almost unanimously to adopt the bill. Mr. Itongwa urged the Government to fulfil its international commitments and respond to the issues faced by its indigenous communities.

B. Interactive discussion

30. Representatives of several Member States, national human rights institutions and non-governmental organizations took the floor to provide comments or make further enquiries. The crucial role that human rights defenders played in promoting and protecting human rights, democracy, the rule of law and accountability was generally recognized. It was also widely agreed that indigenous human rights defenders contributed to the protection of cultural diversity in their countries. However, they remained particularly vulnerable to violence and killings, while the COVID-19 pandemic was exacerbating the inequalities faced by indigenous communities.

31. A number of representatives noted that the negative effects of shrinking democratic space and the restrictions imposed to tackle COVID-19 increased the prevalence of violence and intimidation against indigenous communities and human rights defenders. Deep concern

was expressed about the escalation of threats and attacks against indigenous human rights defenders, including the criminalization of their activities. It was noted that patterns of stigmatization and criminalization of indigenous human rights defenders might further worsen in the broader context of growing racism. Impunity in relation to extrajudicial killings, torture, enforced disappearance and reprisals against indigenous representatives participating in United Nations mechanisms was decisively condemned and proclaimed as unacceptable.

32. Several Member States highlighted that they were aware of persisting challenges encountered in trying to guarantee indigenous peoples' right to participate in decision-making processes on issues affecting them. Member States reiterated their commitment to continuing to work together to eliminate barriers that hampered the full participation of indigenous peoples, and condemned all acts of violence perpetrated against indigenous peoples and human rights defenders. They expressed their willingness to adopt the measures necessary to protect the lives, well-being and integrity of human rights defenders and ensure respect for the rights of indigenous peoples to assembly, self-determination, self-government, autonomy and development.

33. Certain Member States highlighted the situation of women indigenous human rights defenders, who experienced complex, multidimensional violations of their rights, especially when challenging traditional gender roles. It was underlined that they performed vital work, despite all the risks, by promoting sexual and reproductive health rights for all. Several Member States deemed it essential to recognize and address the challenges encountered by women indigenous human rights defenders, who faced intersectional discrimination as women and as indigenous people and were at a heightened risk of attacks and marginalization within their societies.

34. Representatives of national human rights institutions and non-governmental organizations underscored the importance of Member States seeking indigenous peoples' free, prior and informed consent before embarking on development megaprojects, such as those involving mining and hydropower, which were often pursued with little regard for the rights of indigenous peoples to their land, territories, waters and other resources. The representatives shared the concern of the panellists about the prevalence of reprisals, intimidation, harassment and violence against indigenous human rights defenders, and highlighted the significance of defenders' engagement with United Nations human rights mechanisms. The important role of the United Nations Voluntary Fund for Indigenous Peoples was pointed out, as it supported the participation of indigenous peoples' representatives in high-level United Nations meetings and deliberations. The work of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in building the capacity of indigenous peoples through its Indigenous Fellowship Programme was also highlighted. Member States were strongly encouraged to support the Voluntary Fund and the Indigenous Fellowship Programme through their contributions.

35. Representatives called on all Member States to protect the rights of indigenous peoples and the individuals defending those rights, ensure their safety – irrespective of the source of the threat, whether from State or non-State actors – and guarantee accountability for the perpetrators. They recommended that the safety of human rights defenders be improved through the development of flexible, adapted and sustainable methods to assist them, including through cooperation with organizations that provided urgent support mechanisms.

36. Representatives directed additional enquiries at the panellists on a number of issues, including how States could effectively address the heightened level of risk that indigenous human rights defenders experienced; what further steps the Human Rights Council could take to better protect indigenous human rights defenders from attacks and reprisals; what recommendations they had for States to more effectively support women, two-spirit, *takatāpui*, lesbian, gay, bisexual, transgender and intersex indigenous human rights defenders; whether they had any additional comments on the study by the Expert Mechanism on the Rights of Indigenous Peoples on land rights,³ which touched on the persecution of

³ A/HRC/45/38.

defenders of indigenous land; and how States could work together to ensure that women indigenous human rights defenders had equal access to protection from threats of violence and intimidation in the future.

IV. Concluding comments from the panellists

37. In her concluding remarks, Ms. Quilcué Vivas reiterated the horrific situation faced by indigenous peoples in Colombia, particularly in Cauca. She requested the Human Rights Council to make an official appeal to the Government of Columbia to recognize and address the systematic violence against indigenous peoples and provide guarantees with regard to the Government's commitments and obligations under the peace agreement. She also asked Member States for urgent help with observing, monitoring and following up on the human rights situation in Colombia. She specifically requested monitoring of the actions of the law enforcement authorities, whom she claimed were responsible for extrajudicial killings. She reported that self-protection forces, referred to as the Indigenous Guard, were to be mobilized with the purpose of exercising the right to life and avoiding genocide of indigenous peoples.

38. Mr. Anderson addressed some of the questions raised during the interactive discussion, namely what could be done to effectively protect indigenous human rights defenders. He mentioned the work of the Special Rapporteur on the rights of indigenous peoples, who had identified and reported on multiple cases of violations; however, owing to insufficient resources, following up on the reported cases had been impossible. He therefore urged the Member States to support the special procedures of the Human Rights Council. He appealed to States to recognize the substantial work done through the OHCHR Indigenous Fellowship Programme and OHCHR field offices at the grass-roots level. He underlined the limited resources of human rights defenders and encouraged the Human Rights Council to push for more access for indigenous people to international mechanisms. He took the view that an intersectional approach to the threat, risks and protection needs of human rights defenders was critical, noting in particular the importance of looking at the issue of the defamation, smearing and criminalization of women human rights defenders, who also faced threats and risks from within and outside their own communities. In addition, he touched upon the issue of impunity, which he believed was tightly interconnected with corruption and megaprojects with large financial interests. He suggested that funds should be traced to see who was benefiting from attacks on human rights defenders. Lastly, he referred to Sustainable Development Goal 16, which included an indicator on attacks on human rights advocates.

39. Ms. Tauli Corpuz thanked the States that had spoken up and reiterated their commitment to deal with the issues of criminalization, extrajudicial killings and violence against indigenous peoples. She proposed follow-up on those statements during the next panel discussion to gauge the extent to which the issues had been addressed. Impunity and lack of justice were the key reasons that violence and crimes against indigenous peoples continued to persist. She expressed hope that all crimes would be properly investigated and the perpetrators brought to account. In addition, she reiterated the point raised about indigenous women, as well as indigenous children, who were most vulnerable to attacks. Indigenous women engaged in conflicts to protect their fathers, husbands or sons, and were often incarcerated, stigmatized and criticized both by the State and by society at large. On the negative effects of COVID-19, she emphasized that many States approached the pandemic as a security issue, while it was in fact a matter of public health. They deployed the military and law enforcement to alleviate the crisis, which in many instances led to suffering and displacement of indigenous communities, who were vastly ignored and deprived of their right to introduce their own protection and health-care measures.

40. Mr. Itongwa thanked all the participants for the information that they had shared on the topic. He proposed that the universal periodic review mechanism be used to monitor the process of implementation and progress made by States with respect to the issue of the protection of indigenous human rights defenders. He concluded that the work of indigenous human rights defenders was advantageous for both indigenous peoples and the State, since protecting the lands, waters and other resources would lead to sustainable development and the preservation of forest ecosystems, which would constitute a benefit for the whole of humanity.
